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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,602	04/02/2004	William G. Barrus	BOC920030104US1 (025)	9699
46322 7590 12/24/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487				
EXAMINER				
CHRISTENSEN, SCOTT B				
ART UNIT		PAPER NUMBER		
2444				
MAIL DATE		DELIVERY MODE		
12/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/816,602

**Applicant(s)**

BARRUS ET AL.

**Examiner**

Scott Christensen

**Art Unit**

2444

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1.5, 9-12 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.5, 9-12 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S5108)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is in regards to the most recent papers filed on 6/12/2008.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Judge (Judge) US. Patent No. 7096498.
4. Regarding Claim 1, Judge discloses a plurality of e-mail clients communicatively linked to one another (see e.g. (Fig. 2, 130) workstations on a network running email software); a plurality of cooperative spam control processors, each of said processor coupled to a corresponding one of said e-mail clients (see e.g. Fig. 3), wherein said cooperative spam control processors comprises programming for detecting spam and for notifying others of said cooperative spam control processors of said spam (see e.g. col. 7, lines 19-20); and a group administrator for said e-mail clients, said group administrator having authority to establish an agreement to exchange spam notifications

with other groups of e-mail clients having respective cooperative spam control processors (see e.g. col. 19, lines 13-16).

5. Regarding Claim 5, Judge discloses accepting an electronic spam notification (see e.g. col. 31, lines 6-9) received from a peer e-mail recipient in a common computing group identifying a spam message received by said peer e-mail recipient (see e.g. col. 12, lines 57-59); storing said notification (see e.g. col. 7, lines 31-40); and, if an e-mail is subsequently received which corresponds to said identified spam message, processing said received e-mail as spam (see e.g. col. 17, lines 32-41); consulting a peer policy for said peer e-mail recipient comprising rules for handling e-mail identified as spam by said peer e-mail recipient (see e.g. col. 12, lines 47-48); heeding said notification if said rules indicate that notifications from said peer e-mail recipient are to be heeded; and, ignoring said notification if said rules indicate that notifications from said peer e-mail recipient are to be ignored (see. e.g. col. 12, lines 47-48); and overriding said notification where said e-mail message meets criteria established in said policy for overriding a spam notification (see e.g. col. 19, lines 66-67 & col. 20, lines 1-3).

6. Regarding Claim 9, Judge discloses consulting step comprises the step of consulting an internally managed local peer policy (see e.g. col. 19, lines 66-67 & col. 20, lines 1-3).

7. Regarding Claim 10, Judge discloses consulting step comprises the step of consulting a centrally managed remote peer policy (see e.g. col. 16, lines 1-4)

8. Regarding Claim 11, the limitations of claim 11 have already been addressed above.

9. Claim 12, lists all the same elements of claim 5, in a machine readable storage having stored thereon a computer program form rather than system form. Therefore, the supporting rationale of the rejection to claim 5 applies equally as well to claim 12.

10. Claim 16, lists all the same elements of claim 9, in a machine readable storage having stored thereon a computer program form rather than system form. Therefore, the supporting rationale of the rejection to claim 9 applies equally as well to claim 16.

11. Claim 17, lists all the same elements of claim 10, in a machine readable storage having stored thereon a computer program form rather than system form. Therefore, the supporting rationale of the rejection to claim 10 applies equally as well to claim 17.

12. Claim 18, lists all the same elements of claim 11, in a machine readable storage having stored thereon a computer program form rather than system form. Therefore, the supporting rationale of the rejection to claim 11 applies equally as well to claim 18.

***Response to Arguments***

13. On pages 9-10 of Applicant's arguments, Applicant argues the rejection of claims 1-4 under 35 USC 112. More specifically, Applicant argues that the language "cooperative spam control processor comprises programming" does not render the claim as being indefinite. Examiner agrees.

14. However, it is noted that this language means that the remaining portion ("for detecting spam and for notifying others of said cooperative spam control processors of said spam") has questionable patentable weight. This does not reflect the programming directly, but states what the capability, or intended use, of the processor is. As such, any general purpose processor fulfills this functionality, as a general purpose processor has programming that enables a processor to perform the claimed functionality when it is provided with the commands to perform the functionality. Applicant should amend the instant claim to clearly require that the processor performs the functionality, rather than having programming for performing the functionality, or having the programming in some memory, that when executed by the processor, perform the functionality.

15. Accordingly, the rejection under 35 USC 112 has been withdrawn.

16. On pages 10-11 of Applicant's response, Applicant argues the rejection of claim 1 under 35 USC 102. More specifically, Applicant argues that Judge does not disclose, "a group administrator for said e-mail clients, said group administrator having authority to establish an agreement to exchange spam notifications with other groups of e-mail clients having respective cooperative spam control processors."

17. The portion cited to reject this limitation was Judge, column 19, lines 13-16. This portion discloses that an administrator can configure the system with rules and policies. As rules and policies can be established, the administrator has the authority to establish the agreement as claimed. There is no requirement as to what constitutes the agreement or who the agreement is between. This agreement, as currently claimed, appears to simply be a policy that dictates that spam notifications are exchanged with other groups of clients, where the administrator has authority to establish policies. Applicant should amend the instant claim to clearly demonstrate how the agreement is established.

18. On pages 11-12, Applicant addresses the remaining claims, simply stating limitations that are within the claims, and stating that the claims are allowable. As applicant has provided no arguments, and just broadly asserting that the claims are allowable, the rejections of the remaining claims have been maintained.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. C./  
Examiner, Art Unit 2444  
/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444